



**UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office**

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/294,956	04/20/99	COX	

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TMD1/1204

EXAMINER

ART. UNIT	PAPER NUMBER
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DATE MAILED: 12/04/00

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Advisory Action

Application No.

09/294,956

Examiner

Anthony DiLorenzo

Applicant(s)

COX ET AL.

Art Unit

2131

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check only a) or b)]

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
- b) ☐ In view of the early submission of the proposed reply (within two months as set forth in MPEP § 707.07 (f)), the period for reply expires on the mailing date of this Advisory Action, OR continues to run from the mailing date of the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will be entered upon the timely submission of a Notice of Appeal and Appeal Brief with requisite fees.
3. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search. (see NOTE below);
 - (b) ☐ they raise the issue of new matter. (see Note below);
 - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____

4. ☐ Applicant's reply has overcome the following rejection(s): _____.
5. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
6. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☐ request for reconsideration has been considered but does NOT place the application in condition for allowance because: see Examiner's response, attached.
7. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
8. ☐ For purposes of Appeal, the status of the claim(s) is as follows (see attached written explanation, if any):
- Claim(s) allowed: _____.
- Claim(s) objected to: _____.
- Claim(s) rejected: _____.
- Claim(s) withdrawn from consideration: _____.
9. ☐ The proposed drawing correction filed on _____ a) ☐ has b) ☐ has not been approved by the Examiner.
10. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
11. ☐ Other: _____.

ADVISORY ACTION

This Office Action is written in response to the request for reconsideration filed on 11/24/00 in U. S. Patent Application Serial No. 09/294956. Claims 1-3, 5-16, 18-41, 47-49, 51-62, 64-87, and 108-134 have been examined on the merits in light of the presented responses.

The appropriate sections of Title 35 of the U.S. Code not appearing in this communication have been cited in a previous office action.

Claim Rejections

► Under 35 USC § 103

All rejections are maintained as presented in the office action dated 8/7/00. Support for these rejections will readily be found in the previous two office actions. To summarize:

Claims 1-3, 5-16, 18-26, 33-37, 47-49, 51-62, 64-72, and 79-83 are rejected under 35 U.S.C. 103(a) as being unpatentable over Barton ('997) in view of Applied Cryptography, by Bruce Schneier.

Claims 27-32 and 73-78 are rejected under 35 U.S.C. 103(a) as being unpatentable over Barton in view of Schneier, as applied above, and further in view of Conner et al. ('393).

Claims 38-41, 84-87, and 108-116 are rejected under 35 U.S.C. 103(a) as being unpatentable over Barton in view of Schneier, as applied above, and further in view of Bramall ('101).

Claims 117-121, 124-128, and 130-133 are rejected under 35 U.S.C. 103(a) as being unpatentable over Barton, as applied above, and further in view of Applied Cryptography, by Bruce Schneier.

Claims 122, 123, 129, and 134 are rejected under 35 U.S.C. 103(a) as being unpatentable over Barton in view of Schneier, as applied above, and further in view of Bramall ('101).

Response to Remarks

The following is a response to arguments presented by Applicant for the purpose of overcoming the examiner's rejections under 35 U.S.C. 103(a). Examiner has considered these arguments carefully, and has maintained the rejections presented in the August 7th office action for the following reasons.

With regards to the feature of inserting a public key into the associated data field, examiner first notes that claim 1 recites "associated data comprises data *identifying* a public key..." (emphasis added). This is a broader recitation than what the Applicant is arguing: that the public key itself is inserted into the associated data field. However, regardless of whether the key or an identifier of the key is inserted into the associated data field, examiner contends that this feature does not make the Applicant's invention patentable over the combination of Barton in view of Schneier.

Art Unit: 2131

Applicant has alleged that the examiner used improper hindsight to make that combination of references.

Examiner agrees with the guidelines for making a proper combination of references under 35 U.S.C. 103(a), cited from *In re Vaeck*, 947 F.2d 488, 20, USPQ2d 1438 (Fed. Cir. 1991). Examiner respectfully disagrees that any improper hindsight was used to reconstruct the invention from the applicant's own disclosure. The August 7th office action, at page 3 ll. 35-40, states clear motivation for including an identifier of the public key in the associated data field of Barton. Barton discloses an associated data field that contains information about the signing method. Schneier was cited to explicitly show on the record that public/private key signatures, a particular type of signing method, were well known in the field of cryptography as of 1995. Given the fact that public key signatures are so well known, and the fact that Barton sets aside a field expressly to contain information about the digital signing method that was used to create the embedded signature, examiner contended that it would be obvious to include in that field data indicative of the public key which is necessary to verify the signature.

Examiner also feels that the level of ordinary skill has been resolved with regards to public key cryptographic signatures—the Schneier reference cited to disclose that feature is a cryptography handbook published in 1995 containing basic information needed to practice cryptography. With regards to a lack of motivation to use the public key signing method of Schneier as the signing method of Barton, using a public key signature is general knowledge in the art and would be an obvious signing method to use in Barton. In response to the statement by Applicant on the last line of page 5, noting that the examiner did not make the obviousness arguments in relation to the knowledge held by the person of ordinary skill, examiner agrees that the words “person of ordinary skill” were not explicitly stated in the rejection. However, this was the examiner's intent, and is implicit since the rejection was made under 35 U.S.C. 103(a), which Code states that obviousness is judged with regards to the person of ordinary skill in the art. To summarize, examiner disagrees that any improper hindsight was used because Barton has a field for adding information about the digital signature, Schneier shows public key signatures, and the person of ordinary skill would find it obvious to include information about the public key (i.e., information about the signature) in the signature information field of Barton.

With regards to the feature of receiving data from the various specific external sources claimed by Applicant, examiner has addressed these features as well known methods of obtaining data from an external source, and maintains that the person of ordinary skill would find these well known methods obvious for obtaining data from an external source in Barton, which reference was shown to inherently receive data from an external source. Applicant is referred to page 5, lines 31-35 of the August 7th office action. Examiner again denies that any impermissible hindsight was used to make the combination of references.

With regards to the feature of third party timestamping, Applicant has incorrectly stated that examiner did not cite a reference showing this feature. Examiner explicitly stated in the February 8th office action that Schneier shows the use of a time stamped hash value appended to a document, and cited reasons why it would be desirable for this process to be carried out by a

Art Unit: 2131

third party. Applicant is referred to page 5, ll. 1-15, page 7, ll. 12-22 of the February 7th office action, and page 5, ll. 37-40 of the August 7th office action.

With regards to the feature of biometric identification, examiner took official notice that biometrics are well known in the art. Motivation to include biometrics in Bramall was provided by citing the advantages of biometric identification. In response to the arguments that the examiner has not resolved the level of ordinary skill in the art with regards to biometric identification, examiner respectfully disagrees. Biometric identification is well known in the art of cryptography and its implementation as the identification protocol of Bramall would not be outside the realm of knowledge of the person of ordinary skill.

For these reasons, the rejections have been maintained.

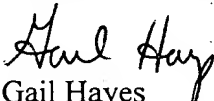
Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anthony DiLorenzo, whose telephone number is (703) 306-5617. If the examiner is not available, a voice mail greeting will indicate when the examiner will return to the office. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.


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November 30, 2000


11/30/00